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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------------|------------------|
| 10/743,798  | 12/24/2003  | Y.K. Chen            | MR2549-65                          | 9791             |
| 4586  | 7590        | 10/19/2005           |                                    |                  |
| ROSENBERG, KLEIN & LEE<br>3458 ELLICOTT CENTER DRIVE-SUITE 101<br>ELLICOTT CITY, MD 21043 |             |                      | EXAMINER<br>CHUKWURAH, NATHANIEL C |                  |
|   |             |                      | ART UNIT<br>3721                   | PAPER NUMBER     |

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |   |                                   |  |
|------------------------------|---|-----------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/743,798      | <b>Applicant(s)</b><br>CHEN, Y.K. |  |
|                              | <b>Examiner</b><br>Nathaniel C. Chukwurah | <b>Art Unit</b><br>3721           |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The indicated allowability of claims 3 and 4 are withdrawn in view of the newly discovered reference(s) to Chen. Rejections based on the newly cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, "wherein at least one of said retaining portions" in line 18 is unclear as to what retaining portion applicant is referring. Is it the retaining portions of the top seat or top cover?

Perhaps in line 19 of claim 1, "retaining portion" should be --retaining portions--.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (US 5,642,849).

With regard to claim 3, Chen discloses a staple gun comprising:

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a magazine (Fig. 4); a top cover (50) on the top seat (40); a fastening latch (53, 54) pivoted with the top cover (50), wherein the top seat (40) is provided with at least two retaining portions (41, 42) for retaining portions of the top cover (51, 52); the fastening latch (53, 54) comprises a moving member (53) and a retaining ring (54) for engaging with the retaining portions (41, 42) of the top seat (40); the retaining portions (41) of the top seat (40) are provided with retaining slot (411) of the top seat (20) for retaining a projection (abutting edge of 511) of the top cover.

With regard to claim 4, Chen discloses a staple gun comprising:

a magazine (Fig. 4); a top cover (50) mounted on the top seat (40); a fastening latch (53, 54) pivoted with the top cover (50), wherein the top seat (40) is provided with at least two retaining portions (42) and two fastening portions (41) and wherein the top cover is provided with two retaining portions (52), two fastening portions (51) and a support (lug) for supporting the fastening latch of the top cover; the fastening latch (53, 54) comprises a moving member (53) and a retaining ring (54) wherein the retaining ring is engaged with the retaining portions (42) of the top seat (40); wherein the fastening portions (41) of the top seat is provided with a fastening slot (411) for engaging a projection (abutting edge of 511) of the top cover.

***Allowable Subject Matter***

Claims 1-2 and 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose a staple gun comprising in combination at least one of the retaining portions defining both a retaining slot and for receiving a retaining portion of a top cover and a hooking portion for engaging a retaining ring of a fastening latch.

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***Response to Arguments***

Applicant's arguments with respect to claims 3 and 4 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

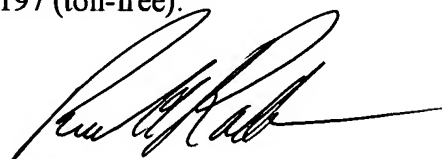
Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC  
Oct, 5, 2005.



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700